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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,671	11/12/2003	Carmen Ludwig	15540-015001 / A 100 503	4661
26161	7590	07/01/2005		
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			EXAMINER SAFARI, MICHAEL	
			ART UNIT 3673	PAPER NUMBER

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,671

Applicant(s)

LUDWIG ET AL.

Examiner

M. Safavi

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/28/04</u> . | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17, line 2, to which additional part does "the additional part" refer?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lamb et al. Lamb et al. discloses, Fig. 1A, A multi-part carrying structure apparatus for supporting a body part of a patient, the apparatus comprising a main carrying structure 10 having a narrow support surface, a first additional part 17 having a support

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surface, the first additional part being detachably connected to the main carrying structure, wherein when the first additional part is connected to the main carrying structure a first combined support surface including the narrow support surface of the main carrying structure and the support surface of the first additional part is wider than the narrow support surface of the main carrying structure, and wherein the main part and the first additional part are produced from a material, including a carbon-fiber material, having a high degree of transparency for X-rays, col. 3, line 65 to col. 4, line 3. A second additional part in mirror-inverted manner to the first additional part is taught, col. 7, lines 30-31. The main part is configured in the form of a Y but could be considered a T as well. A coupling element is inherently used for connecting the main part to the first additional part.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamb et al. in view of Kirchgeorg et al.

Lamb et al. appears to express that the carrying structure is formed of a carbon fiber material. However, Kirchgeorg et al. does disclose a support structure formed of a carbon fiber material and substantially transparent to X-rays, col. 4, lines 49-59 and

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claim 10. Therefore, to have formed the Lamb et al. support structure of a carbon fiber material, including any and all parts thereof, thus allowing for a high degree of transparency to X-rays as well as providing a sturdy support structure, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Kirchgeorg et al.

Claims 2 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamb et al. in view of Conner et al.

Conner et al. discloses utilization of connecting members in the form of a coupling element including a connecting element 80 that is movably mounted on the additional part of a support surface and that can be introduced into a receptacle 29, for example, within the main or another additional part. To have attached the additional surfaces 17 of the Lamb et al. support surface with a connecting device in the form of connecting elements that are movably mounted on the additional part 17 of the support surface and that can be introduced into a receptacle within the main part 10, thus allowing a quick connection and release therefrom, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Conner et al. Further, to have attached the additional surfaces 17 of the Lamb et al. support surface with a connecting device in the form of connecting elements that are movably mounted on the main part 10 of the support surface and that can be introduced into a receptacle within the additional part 17, thus allowing a quick connection and release therefrom, would have been obvious to one having ordinary skill in the art at the time

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the invention was made as taught by Conner et al. and since it has been established that mere rearrangement or reversal of parts has no patentable significance unless new and unexpected result is produced, In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955). To further form any such connecting parts of a carbon fiber material, thus allowing for uniformity within the Lamb et al. support surface, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Conner et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
June 22, 2005